

1 RICHARD M. BARNETT, Esq.  
2 Attorney at Law  
3 #65132  
4 105 West F Street, 4th Floor  
5 San Diego, CA 92101  
6 Telephone: (619) 231-1182

7  
8 Attorney for Petitioner  
9 PAUL BROMLEY

FILED

08 FEB 14 PM 4:44

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

10  
11 UNITED STATES DISTRICT COURT  
12 SOUTHERN DISTRICT OF CALIFORNIA

13 IN RE PETITION OF PAUL BROMLEY  
14 FOR RELEASE OF SEIZED 2002 Ford Ranger,  
15 California License 8A79085,  
16 VIN 1GMEC16TX1J262096,

17 PAUL BROMLEY,

18 Petitioner.

Case No. 08 CV 0300 H AJB  
PETITION OF PAUL BROMLEY  
FOR RELEASE OF SEIZED  
VEHICLE

19 The Petitioner, PAUL BROMLEY, by and through his counsel, and pursuant to Title 18, United  
20 States Code, Section 983(f)(3)(A), hereby petitions this Court for the release of his 2002 Ford Ranger  
21 vehicle during the pendency of administrative and/or judicial forfeiture proceedings.

22 STATEMENT OF THE CASE

23 On December 28, 2007, petitioner's vehicle was seized at the San Ysidro Port of Entry following  
24 the discovery of an individual who lacked a lawful right to enter the United States.

25 On January 28, 2008, petitioner filed his Seized Asset Claim Form and Hardship Petition with  
26 U.S. Customs and Border Protection seeking the release of the vehicle. (See Exhibit "A" attached  
27 hereto). As of the date of his filing, no response has been received to Mr. Bromley's administrative  
28 petition. This petition follows.

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**STATEMENT OF THE LAW**

On August 23, 2002, the Civil Asset Forfeiture Reform Act of 2000 (CAFRA) went into effect. One of the main elements of the statute provides for the what is often referred to as a Hardship Release, a provision for the release of property during the pendency of the forfeiture proceedings. The 'release' provisions are found in Title 18, United States Code, Section 983(f), which provides as follows:

**(f) RELEASE OF SEIZED PROPERTY**

**(1)** A claimant under subsection (a) is entitled to immediate release of seized property if -

**(A)** the claimant has a possessory interest in the property;

**(B)** the claimant has sufficient ties to the community to provide assurance that the property will be available at the time of the trial;

**(C)** the continued possession by the Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless;

**(D)** the claimant's likely hardship from the continued possession by the Government of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the proceeding; and

**(E)** none of the conditions set forth in paragraph (8) applies.

In his petition to the U.S. Customs, Mr. Bromley met all of the above requirements. He set forth and he is the registered owner of the vehicle. [18 U.S.C. § 981(f)(1)(A)] (See Exhibit "A"). He further established his community ties by explaining he is a United States citizen and has been a resident of Southern California since birth. [18 U.S.C. § 981(f)(1)(B)]. He also explained the continued possession by the Government pending the final disposition of forfeiture proceedings will cause substantial hardship to him for the following reasons. He works the graveyard shift at the Pechanga Resort and Casino. He resides in the mountains above Anza, California with his wife and 15 month old child. The closest public transportation is approximately 30 miles away. In case of an emergency while he's at work, his wife has no way to get to a hospital, other emergency care or a doctor. In addition, they live in a fire danger zone, and she has no transportation while he's at work to flee their home if necessary. Finally, on occasion it snows where they live and their other car which he uses to get to work, a Toyota Corolla, cannot handle the snow. Additionally, he needs the vehicle to tend to the normal necessities of life such

1 as grocery shopping, going to doctors appointments, etc. Finally, he demonstrated that the likely  
 2 hardship from the continued possession by the government of the vehicle outweighs the risk that the  
 3 vehicle will be destroyed, damaged, lost or transferred if it is returned to him during the proceedings as  
 4 insurance has been maintained on the vehicle will to continue to be maintained should the vehicle be  
 5 released to him. [18 U.S.C. § 981(f)(1)(D)]. Nevertheless, U.S. Customs has failed to even respond to  
 6 his Petition.

7 In spite of Mr. Bromley's clearly demonstrated hardship arising from the seizure of the vehicle,  
 8 U.S. Customs has failed to return the vehicle. Congress has provided a remedy for such inaction. Title  
 9 18, United States Code, Section 983(f)(3)(A) provides:

10 If not later than 15 days after the date of a request under paragraph (2) the property has  
 11 not been released, the claimant may file a petition in the district court in which the  
 12 complaint has been filed or, if no complaint has been filed, in the district court in which  
 the seizure warrant was issued or in the district court for the district in which the property  
 was seized.

13 18 U.S.C. Section 983(f)(5) further provides:

14 **The court shall render a decision on a petition filed under paragraph (3) not later**  
 15 **than 30 days after the date of the filing,** unless such 30-day limitation is extended by  
 consent of the parties or by the court for good cause shown. (Emphasis added).

16 18 U.S.C. Section (f)(6) goes on to require the following:

17 If -

18 (A) a petition is filed under paragraph (3); and

19 (B) the claimant demonstrates that the requirements of paragraph (1) have been  
 20 met, the district court shall order that the property be returned to the claimant,  
 21 pending completion of proceedings by the Government to obtain forfeiture of  
 the property. (emphasis added).

22 Mr. Bromley has met all of the above requirements. He has filed the petition under 18 U.S.C.  
 23 Sections 983(f)(1) and (2), he had demonstrated that the requirements of paragraph (f)(1) have been met.  
 24 Under these circumstances the statute calls for the court ordered release of the vehicle to him during the  
 25 pendency of the forfeiture proceedings.

26 If the court grants this petition, the court may enter any order necessary to ensure that the value  
 27 of the property is maintained while the forfeiture action is pending, including (1) permitting the  
 28 inspection, photographing, and inventory of the property; (2) fixing a bond in accordance with Rule E(5)  
 of the Supplemental Rules for Certain Admiralty and Maritime Claims; and (3) requiring the claimant

1 to obtain or maintain insurance on the subject property. While it is petitioner's contention no bond is  
2 necessary in this case, he has no objection to permitting the inspection, photographing and inventory of  
3 the vehicle, nor requiring him to continue maintain insurance on the vehicle.

4 **CONCLUSION**

5 Mr. Bromley needs his vehicle to take care of his wife, child and the needs of his family. U.S.  
6 Customs's refusal to even rule on his Petition flies in the face of the intention of the statute, which was  
7 to provide redress for those with hardships. He has clearly demonstrated a need for the return of the  
8 vehicle.

9 For the foregoing reasons, it is respectfully submitted this court should order the release of Mr.  
10 Bromley's vehicle to him during the pendency of administrative and/or judicial forfeiture proceedings.

11 Dated: February 14, 2008

12 Respectfully submitted,

13   
14 RICHARD M. BARNETT

15 Attorney for Petitioner  
16 PAUL BROMLEY  
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**PROOF OF SERVICE**

I, Liliana Solorio, do hereby state:

That I am a citizen of the United States, over the age of eighteen years, and not a party to the within action.

That my business address is 105 West F Street, 4th Floor, San Diego, California.

That on February 14, 2008, I hand delivered, in San Diego, California, in the above-entitled action, in an envelope: Petition of PAUL BROMLEY for Release of Seized Vehicle to the office of the following individuals:

Mary Lundberg  
Assistant U.S. Attorney  
Office of the U.S. Attorney  
880 Front Street  
San Diego, CA 92188

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 14th day of February, 2008, at San Diego, California.

  
LILIANA SOLORIO



01/25/2008 13:32

9516951832

POSTALANNEX

PAGE 02

## SEIZED ASSET CLAIM FORM

Seizure No. Unknown

Date of Seizure: 12-28-07

Place of Seizure: San Ysidro Port of Entry

Item Seized: One 2002 Ford Ranger, California License 8A79085

Owner: Paul Bromley

**I hereby request that the Government file a Complaint for Judicial Forfeiture of the seized property described below. I have filled in all three parts, as required.**

### PART I

List all the items in which you claim an interest. Include sufficient information to identify the items, such as serial numbers, make and model numbers, tail numbers, photographs, and so forth. Attach additional sheets of paper if more space is needed.

One 2002 Ford Ranger, California License 8A79085.

### PART II

State your interest in each item of property listed above. Provide any documents that support your claim of interest, such as titles, registrations, bills of sale, receipts, and so forth. Attach additional sheets of paper if more space is needed.

I am an owner of the seized vehicle.

### PART III (ATTESTATION AND OATH)

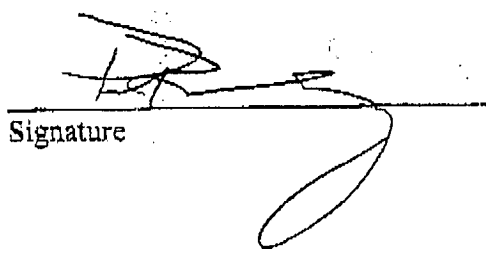
I attest and declare *under penalty of perjury* that the information provided in support of my claim is true and correct to the best of my knowledge and belief.

PAUL BROMLEY

Name (Print)

January 25, 2008

Date

  
Signature

01/25/2008 13:32 9516951832

POSTALANNEX

PAGE 03

*A FALSE STATEMENT OR CLAIM MAY SUBJECT A PERSON TO  
PROSECUTION UNDER 18 U.S.C. 1001 AND/OR 1621 AND IS PUNISHABLE  
BY A FINE AND UP TO FIVE YEARS IMPRISONMENT.*



01/25/2008 11:02 9516951832

POSTALANNEX

PAGE 02

**HARDSHIP PETITION**  
**[18 U.S.C. Section 983(f)(1)]**

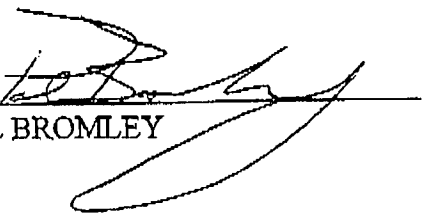
Seizure No: Unknown  
Date of Seizure: 12-28-07  
Place of Seizure: San Ysidro Port of Entry  
Item Seized: One 2002 Ford Ranger, California License 8A79085  
Owner: Paul Bromley

I, Paul Bromley, am the registered and legal owner of the seized 2002 Ford Ranger.

I petition for the release of my truck pursuant to Title 18, United States Code, Section 983(f)(1) based on the following facts:

- (A) I am the registered and legal owner of the vehicle.
- (B) I have sufficient ties to the community to provide assurance that the vehicle will be available at the time of trial. I am a United States citizen and have been a resident of Southern California since my birth.
- (C) The continued possession by the Government pending the final disposition of forfeiture proceedings will cause substantial hardship to me for the following reasons. I work the graveyard shift at the Pechanga Resort and Casino. I reside in the mountains above Anza, California with my wife and 15 month old child. The closest public transportation is approximately 30 miles away. In case of an emergency while I am at work, my wife has no way to get to a hospital, other emergency care or a doctor. In addition, we live in a fire danger zone, and she has no transportation while I am at work to flee our home if necessary. Finally, on occasion it snows where we live and our other car which I use to get to work, a Toyota Corolla cannot handle the snow. Additionally, I need the vehicle to tend to the normal necessities of life such as grocery shopping, going to doctors appointments, etc.
- (D) The likely hardship from the continued possession by the Government of the vehicle outweighs the risk the vehicle will be destroyed, damaged, lost or transferred if it is returned to me during the pendency of the proceedings. Insurance has always been maintained on the vehicle and will continue to be maintained should the vehicle be released.

Dated: January 23, 2008

  
\_\_\_\_\_  
PAUL BROMLEY

**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

# 147677 - BH  
\* \* C O P Y \* \*  
February 14, 2008  
16:27:41

**Civ Fil Non-Pris**  
USAO #.: OBCV0300 CIVIL FILING  
Judge..: MARILYN L HUFF  
Amount.: \$350.00 CK  
Check#.: BC# 247

**Total-> \$350.00**

FROM: BROMLEY V. U.S.A.  
CIVIL FILING

JS44

(Rev. 07/89)

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

**I (a) PLAINTIFFS****PAUL BROMLEY**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF **SAN DIEGO**  
(EXCEPT IN U.S. PLAINTIFF CASES)

**DEFENDANTS****UNITED STATES OF AMERICA: 45**

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
**Richard M. Barnett**  
**105 West F Street, 4th Floor**  
**San Diego, CA 92101**  
**(619) 231-1182**

**ATTORNEYS (IF KNOWN)****'08 CV 0300 H AJB****II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)**

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)**

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PT                         | DEF                        |   | PT                         | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY). Petition for Release of seized Vehicle.****(18 USC 983 (f) (1))****V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)**

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input checked="" type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(a)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prisoner Conditions			

**VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)**

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

**DEMAND \$**

Check YES only if demanded in complaint:

**JURY DEMAND:** ☐ YES ☒ NO**VIII. RELATED CASE(S) IF ANY (See Instructions):****JUDGE****Docket Number****DATE****2-14-08****SIGNATURE OF ATTORNEY OF RECORD***[Signature]***PAID \$350- 2/14/08 BY RCPT # 147677**

::ODMA\PCDOCS\WORDPERFECT\22816\1 January 24, 2000 (3:10pm)

CR